

Chalmers filed an action in district court for review of the Secretary's decision. The court held that Chalmers's interest in the C & P partnership was a resource under the regulations because she had the legal right to liquidate it. The district court did not reach the question whether Chalmers's equitable interest in the property was a resource, although it said that "it would appear that [it], too, is a 'nonliquid resource' under the Secretary's regulation." *Chalmers v. Sullivan*, 818 F.Supp. 98, 102-103 (D.N.J.1993). Chalmers appeals.

We accord considerable deference to the Secretary's interpretation of the SSI statute and its regulations. *Beatty v. Schweiker*, 678 F.2d 359, 360 (3d Cir.1982). "Indeed, we will uphold the Secretary's interpretation of the regulations 'unless it is plainly erroneous or inconsistent with the regulation[s].'" *Id.* (quoting *Bowles v. Seminole Rock & Sand Co.*, 325 U.S. 410, 414, 65 S.Ct. 1215, 1217, 89 L.Ed. 1700 (1945)).

Chalmers concedes on appeal, as indeed she must under the facts, that: "She had the right to terminate the partnership, C & P Land Company. She could have legally sold or otherwise conveyed her 1/4 interest in the real estate, subject to the rights of her siblings, as cotenants. She even had the legal right to bring an action to partition the property as suggested by the Social Security Appeals Council."

She argues, however, that although she has the "right" to liquidate her interests, her disability renders her without the requisite "power" to do so. This argument misconstrues the meaning of the word "power" as used in the regulations. It means not only "a mental or physical ability or aptitude," as Chalmers argues, but also "legal authority," as the Secretary implicitly uses the word. See Webster's Third New International Dictionary 1778-79 (1964). We do not believe that the word "power" was used in the regulations as limited to "mental or physical ability." Moreover, it is likely that many disabled individuals receiving SSI benefits lack the mental or physical ability to manage their own resources, and such an interpretation would render the provision meaningless. Thus, we cannot say that the Secretary's interpretation of "power" as "legal authority" is plainly erroneous, for it is indeed the more sensible construction.

Chalmers argues further that we should interpret the regulatory language "right, authority or power" in the conjunctive instead of the disjunctive. We see no basis to construe the disjunctive "or" in any way other than its plain meaning, see *Herron v.*

Heckler, 576 F.Supp. 218, 222-23 n.-2 (N.D.Cal.1983) (declining to construe "and" as "or" in other SSI regulations), which is the construction adopted by HHS. The cases relied upon by appellant's counsel are simply inapposite.³

We turn next to the question whether Chalmers's interest in the property is a resource for SSI purposes. The principal definition section of the regulation explicitly states that "resources means * * * real * * * property." 20 C.F.R. § 416.1201(a) (1993). Similarly, 20 C.F.R. 416.1201(a)(1) also refers to property, providing that "[i]f the individual has the right, authority or power to liquidate the property, or his share of the property," it is defined as a resource. Chalmers concedes that she can sell "her 1/4 interest in the real estate" and can also "bring an action to partition the property." We therefore conclude that the fact that Chalmers had the legal right to liquidate her interest in the inherited property qualifies it as a resource under the Secretary's regulations.⁴

In essence Chalmers argues that it is not "sensible" or "advantageous" to partition the property because lawyer's fees and costs will consume its net worth. Although that is not an unreasonable position, it is not one that finds support in the regulation. Thus, we are not free to read into the statute or the regulation a requirement that is not there.

Our conclusion is buttressed by legislative history regarding the definition of resources. The House Report to the Social Security Act provides that:

Property not used in the operations of a trade or business and which does not provide a reasonable return should clearly be included as resources. Assets such as buildings or land not used as the individual's abode (which is excluded as described above) which are not readily convertible to cash must be disposed of within a time limit prescribed by the Secretary of Health, Education, and Welfare.

H.R.Rep. No. 231, 92nd Cong., 2d Sess., reprinted in 1972 U.S.C.C.A.N. 4989, 5140. We find this history dispositive. The property at issue is not used in the operations of a trade or

³ For example, in *De Sylva v. Ballentine*, 351 U.S. 570, 573-74, 76 S.Ct. 974, 976, 100 L.Ed. 1415 (1956), the Court read the "or" in the conjunctive, but the statute in question, the 1909 Copyright Act, was "hardly unambiguous" and the legislative history of the statute suggested that the use of "or" may have been a matter of "careless usage."

⁴ Also, the definition of nonliquid resources explicitly refers to "property" and, as the district court noted, offers "buildings and land" as examples of such resources. 20 C.F.R. § 416.1201(c) (1993). See *Chalmers*, 818 F.Supp. at 102.

business or as the individual's abode, and it does not provide a reasonable return. On the contrary, its "major advantage" is "as a tax shelter." Congress clearly intended that such "buildings and land" "must be disposed of" "if they were not readily convertible to cash."

Although we are sympathetic to Chalmers's disability, the record does not establish unequivocally that she cannot effectuate her legal rights. An affidavit filed by her psychiatrist states that it would be "impossible for Ms. Chalmers to retain one attorney and participate in and discuss legal matters," but it is also a matter of record that Chalmers has been represented by an attorney at each stage of these proceedings and that she signed the partnership agreement to form the C & P Land Company.

Finally, Chalmers's reliance on *Cannuni v. Schweiker*, 740 F.2d at 264 (3d Cir.1984), is misplaced. In *Cannuni*, we were asked whether a multiple-party bank account and certificates of deposit were resources sufficient to disqualify a disabled son for SSI benefits. Because we determined that the claimant did not have the legal right to withdraw the funds for his own support, we held that the property could not be considered resources for SSI purposes. Unlike the claimant in *Cannuni*, Chalmers has the right to liquidate her interest in order to apply the proceeds toward her support. While we recognize the difficulty she may have in exercising her rights, we cannot accept her argument that she need not do so because "there are many situations in which the exercise of all of one's legal rights is not the most sensible and advantageous course." For all of the foregoing reasons, the order of the district court will be affirmed.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD08-95-012]

Lower Mississippi River Waterway Safety Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The Lower Mississippi River Waterway Advisory Committee will meet to discuss various navigation safety matters affecting the Lower Mississippi River area. The meeting will be open to the public.

DATES: The meeting will be held from 9 a.m. to approximately 11 a.m. on Tuesday, September 12, 1995.

ADDRESSES: The meeting will be held in the 11th floor conference room of the Hale Boggs Federal Building, 501 Magazine Street, New Orleans, Louisiana.

FOR FURTHER INFORMATION CONTACT: Mr. Monty Ledet, USCG, Recording Secretary, Lower Mississippi River Waterway Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (oan), Room 1211, Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA 70130-3396, telephone (504) 589-4686.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. 2 § 1 et seq. The meeting is open to the public. Members of the public may present written or oral statements at the meeting. The agenda for the meeting consists of the following items:

- (1) Presentation of the minutes from the June 13, 1995 full Committee meeting.
- (2) Subcommittee Reports.
- (3) Industrial Lock Replacement.
- (4) Towboat Horsepower/Tonnage ratios.

Dated: June 22, 1995.

R.C. North,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 95-19350 Filed 8-4-95; 8:45 am]

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[CGD08-95-013]

Lower Mississippi River Waterway Safety Advisory Committee Vessel Traffic Service Subcommittee

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The Lower Mississippi River Waterway Safety Advisory Committee's Vessel Traffic Service Subcommittee will meet to discuss navigation safety matters affecting the Lower Mississippi River area. The meeting will be open to the public.

DATES: The meeting will be held from 10 a.m. to approximately 11 a.m. on Wednesday, August 23, 1995.

ADDRESSES: The meeting will be held at the Crescent Pilots' Belle Chasse office, located at 8712 Highway 23, Belle Chasse, Louisiana 70037.

FOR FURTHER INFORMATION CONTACT: Mr. Monty Ledet, USCG, Recording Secretary, Lower Mississippi River Waterway Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (oan), Room 1211, Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA 70130-3396, telephone (504) 589-4686.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. 2 § 1 et seq. The meeting is open to the public. Members of the public may present written or oral statements at the meeting. The agenda for the meeting consists of the following items:

- (1) Introduction of new members.
- (2) Discussion on the plans for a Vessel Traffic Service on the Lower Mississippi River.
- (3) Presentation of any additional new items for consideration of the Committee.

Dated: June 30, 1995.

R.C. North,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 95-19351 Filed 8-4-95; 8:45 am]

BILLING CODE 4910-14-M

[CGD08-95-014]

Lower Mississippi River Waterway Safety Advisory Committee Gaming Vessel Subcommittee

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The Lower Mississippi River Waterway Safety Advisory Committee's Gaming Vessel Subcommittee will meet to discuss navigation safety matters affecting the Lower Mississippi River area. The meeting will be open to the public.

DATES: The meeting will be held from 10 a.m. to approximately 11 a.m. on Thursday, September 7, 1995.

ADDRESSES: The meeting will be held in room 1830 of the World Trade Center, 2 Canal Street, New Orleans, Louisiana.

FOR FURTHER INFORMATION CONTACT: Mr. Monty Ledet, USCG, Recording Secretary, Lower Mississippi River Waterway Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (oan), Room 1211, Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA 70130-3396, telephone (504) 589-4686.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. 2 § 1 et seq. The meeting is open to the public. Members of the public may present written or oral statements at the meeting. The agenda for the meeting consists of the following items:

- (1) Introduction of new members.
- (2) Discussion on the present and future operation of Gaming Vessels on the Lower Mississippi River.
- (3) Presentation of any additional new items for consideration of the Committee.

Dated: June 22, 1995.

R.C. North,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

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Federal Aviation Administration

Change 1, Advisory Circular (AC) 25-7, Flight Test Guide for Certification of Transport Category Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of issuance of change to advisory circular.

SUMMARY: This notice announces the issuance of Change 1 to Advisory Circular (AC) 25-7, Flight Test Guide for Certification of Transport Category Airplanes. This change to the basic advisory circular provides updated guidance to ensure consistent application of certain airworthiness requirements recently adopted by Amendment 25-84.

DATES: Change 1 to AC 25-7 was issued on June 6, 1995, by the Acting Manager of the Transport Airplane Directorate, Aircraft Certification Service, in Renton, Washington.

HOW TO OBTAIN COPIES: A copy of Change 1 may be obtained by writing to the U.S. Department of Transportation, Utilization and Storage Section, M-443.2, Washington, DC 20590.

Issued in Renton, Washington, on July 26, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service, ANM-100.

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